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Attorneys for Plaintiffs and the
Proposed Classes

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

STACIA STINER; HELEN CARLSON, by
and through her Guardian Ad Litem, JOAN
CARLSON; LAWRENCE QUINLAN, by and
through his Guardian Ad Litem, LORESIA
VALLETTE; EDWARD BORIS, by and
through his Guardian Ad Litem, MICHELE
LYTLE; RALPH SCHMIDT, by and through
his Guardian Ad Litem, HEATHER FISHER;
PATRICIA LINDSTROM, as successor-in-
interest to the Estate of ARTHUR
LINDSTROM; BERNIE JESTRABEK-
HART; and JEANETTE ALGARME; on their
own behalves and on behalf of others similarly
situated,

Plaintiffs,

v.

BROOKDALE SENIOR LIVING, INC.;
BROOKDALE SENIOR LIVING
COMMUNITIES, INC.; and DOES 1 through
100,

Defendants.

Case No. 4:17-cv-03962-HSG (LB)

**STIPULATION AND [PROPOSED]
ORDER REGARDING
ACCESSIBILITY INSPECTIONS**

1 WHEREAS, on May 1, 2019, and July 30, 2019, Plaintiffs served Notices of Site
2 Inspections pursuant to Fed. R. Civ. P. 34(a)(2) seeking the physical inspections of certain
3 Residential Care Facilities located in California (“Locations”) owned or affiliated with
4 Defendants Brookdale Senior Living, Inc. and Brookdale Senior Living Communities, Inc.
5 (collectively “Brookdale” or “Defendants”), copies of which are attached hereto as
6 Exhibits A and B; and

7 WHEREAS, Plaintiffs and Brookdale (the “Parties”) seek to resolve without motion
8 practice a dispute about the number Locations and the number and types of residential
9 units within each Location that need to be made available for inspection for compliance
10 with certain disability accessibility standards (“Access Standards”) such as the 1991
11 Americans with Disabilities Act Accessibility Guidelines (“ADAAG”), the 2010
12 Americans with Disabilities Act Standards for Accessible Design (“2010 ADAS”) and the
13 California Building Code (“CBC”) (the applicability of which Brookdale disputes);

14 IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, as
15 follows:

16 1. Subject to further agreement of the parties or Order of the Court, Brookdale
17 will provide and arrange for Plaintiffs’ counsel and / or their access experts to have access
18 to all Locations with which it is affiliated in California, including those Locations listed in
19 Exhibits A and B, and any other Locations that come to light in the course of Plaintiffs’
20 discovery or investigation, as well as the Locations discussed in Plaintiffs’ Third Amended
21 Complaint, to the extent Defendants have control over the Location, for the purpose of
22 conducting disability access related inspections, including the taking of measurements and
23 photographs and the gathering of information necessary to determine the use of spaces and
24 elements of the Location. The scope of such access and the inspections shall be as set forth
25 in Exhibits A and B. Nothing in this Stipulation shall be deemed a waiver of Brookdale’s
26 objections to the inspections, including but not limited to Brookdale’s right to seek a
27 protective order from the Court in the future regarding the number of Locations to be
28 inspected or the scope of inspections.

2. The Parties shall use good-faith efforts to confirm inspection dates for each requested Location as early as possible, and, unless otherwise agreed or infeasible, at least two-weeks in advance. Defendants shall use good-faith efforts to confirm the dates Plaintiffs have requested (or, if possible, to offer a different requested Location for inspection, even if the particular Location requested for a particular date cannot be made available on that date). To the extent possible at least three inspections in the same general geographic area shall be scheduled in any week in which inspections are scheduled. Plaintiffs agree to make a good-faith effort to complete inspections of each Location in one day. To the extent that the inspection of any particular Location requires multiple days to complete, the parties shall make reasonable good-faith efforts to promptly schedule the additional dates and, where feasible, to complete multi-day inspections on sequential days.

3. For each Brookdale Location inspected by Plaintiffs' experts, whether pursuant to a notice served under Rule 34 or the Rules of Federal Procedure, by agreement, or by Court Order, Defendants will provide access to:

- a. at least eight units for Locations with 1 to 50 assisted living and/or memory care units;
- b. at least twelve units for Locations with 51-149 assisted living and/or memory care units;
- c. at least eighteen units for Locations with 150 or more assisted living and/or memory care units; AND
- d. at least 24 units for Locations with 200 or more assisted living and/or memory care units.

4. Notwithstanding the minimums set forth in subparagraphs 3(a) through 3(d), above, Defendants shall provide access in any sized community to such greater number of units as is necessary to include at least two of each type of unit configuration (*i.e.* studio, one bedroom, two bedrooms, or other configurations) available at that Location and (ii) units having any variations in features or characteristics affecting access for persons with disabilities, if any. Defendants shall also provide access for inspection of at least one

1 occupied unit of each type inspected at each Location.

2 5. If Plaintiffs or their experts reasonably believe that additional residential
3 units of a specific configuration need to be seen at a particular Location based on observed
4 variations in a access-related characteristics of the representative configurations that have
5 been made available or based on other information available to them, Defendants shall
6 endeavor in good faith to make available additional residential units of the same
7 configuration for inspection at that Location.

8 6. The parties will make every effort to insure that the inspections are
9 undertaken in a manner that is efficient and with minimal disruption to staff and residents
10 of each Location. Plaintiffs' experts shall be permitted to take photographs necessary to
11 capture access-related data and facilitate their review and analysis of the data, but will
12 otherwise make an effort to avoid including in such photographs any items in which
13 residents might have a privacy interest. Any such photographs will be subject to the
14 Stipulated Protective Order in this case.

15 7. Defendants hereby stipulate for purposes of class certification and the merits
16 as to Plaintiffs' claims under the Americans with Disabilities Act of 1990 (42 U.S.C. §
17 12101 *et seq.*) ("ADA") and the Unruh Civil Rights Act (Cal. Civ. Code § 51 *et seq.*)
18 ("Unruh Act") that the residential units at a particular Location that are made available to
19 Plaintiffs' counsel and their experts for inspection are typical, in all material respects
20 affecting disability access, of all other residential units of the same configuration (e.g.,
21 studio, one-bedroom, two-bedroom, etc.) at that Location. Defendants further stipulate that
22 no residential units at any Location that were not made available to Plaintiffs and their
23 experts for inspection have any features, elements or dimensions that provide greater
24 access to persons with disabilities than those that were inspected. After completion of
25 Plaintiffs' inspection at any Location, should Defendants identify any unit(s) at that
26 Location providing greater access to persons with disabilities than the units inspected,
27 Defendants will identify to Plaintiffs by the later of December 1, 2019, or twenty (20)
28 business days after completion of Plaintiffs' inspection of that Location, the additional

1 unit(s) and promptly permit Plaintiffs and their experts to inspect it/them.

2 8. Defendants continue to believe that Plaintiffs do not need to inspect all of the
3 more than 60 Locations remaining in California that are affiliated with Brookdale, but have
4 agreed by this Stipulation to continue to make Locations available for inspection in order
5 to facilitate discussions about the physical characteristics of the remaining Locations.
6 Plaintiffs, on the other hand, continue to believe that they are entitled to inspect all
7 remaining Locations in California that are affiliated with Brookdale. To the extent that
8 Brookdale believes that the scope or number of inspections are becoming unduly
9 burdensome or disproportional to the needs of the case and Plaintiffs are not willing to
10 voluntarily forego further inspections, notwithstanding any other provision of this
11 Stipulation, Defendants may seek a protective order from Magistrate Judge Beeler using
12 the Court's joint letter brief process. However, unless and until a protective order issues,
13 the parties shall continue scheduling and conducting inspections pursuant to paragraph 2
14 hereof, without prejudice to either side's arguments for or against a protective order that
15 would cease or limit any inspections that have not yet taken place as of the date that
16 protective order issues.

17 9. By entering into this Stipulation to resolve the present discovery dispute, the
18 parties expressly reserve all positions and arguments with respect to the applicability or
19 inapplicability of the Access Standards, in whole or in part, to Brookdale-affiliated
20 Facilities within the State of California.

21 IT IS SO STIPULATED.

22
23 DATED: September 12, 2019

SCHNEIDER WALLACE
COTTRELL KONECKY
WOTKYNS LLP

24
25 By: /s/ Guy B. Wallace
26 Guy B. Wallace
27 Attorneys for Plaintiffs and the
28 Proposed Classes

1 DATED: September 12, 2019

O'MELVENY & MYERS LLP

2 By: /s Jeffrey A. Barker

3 Jeffrey A. Barker

4 Attorneys for Defendants

5
6 **IT IS SO ORDERED:**

7 Dated: September . 2019

8 HON. LAUREL BEELER

9 United States Magistrate Judge

EXHIBIT A

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Attorneys for Plaintiffs and the Proposed Classes

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
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STACIA STINER; HELEN CARLSON, by and
through her Guardian Ad Litem, JOAN
CARLSON; LAWRENCE QUINLAN, by and
through his Guardian Ad Litem, LORESIA
VALLETTE; EDWARD BORIS, by and through
his Guardian Ad Litem, MICHELE LYTLE;
RALPH SCHMIDT, by and through his Guardian
Ad Litem, HEATHER FISHER; PATRICIA
LINDSTROM, as successor-in-interest to the
Estate of ARTHUR LINDSTROM; and BERNIE
JESTRABEK-HART; on their own behalves and
on behalf of others similarly situated,
Plaintiffs,

vs.

BROOKDALE SENIOR LIVING, INC.;
BROOKDALE SENIOR LIVING
COMMUNITIES, INC; and DOES 1 through 100,
Defendants.

CASE NO. 17-cv-03962-HSG (LB)

**NOTICE OF SITE INSPECTIONS
PURSUANT TO FRCP 34**

PLEASE TAKE NOTICE that beginning on June 11, 2019, Plaintiffs will conduct site inspections as permitted by Rule 34(a)(2) of the Federal Rules of Civil Procedure at the Brookdale Senior Living facility locations indicated in the table below. Specifically, the scope of Plaintiffs' inspections will include all of the following: (a) parking lots and spaces; (b) routes to entrances and to alternative entrances from the parking lots and spaces; (c) entrances, and alternate entrances; (d) corridors; (e) dining areas; (f) lounges; (g) visitor common areas; (h) other common areas and areas available for use by residents; (i) public restrooms; (j) rooms where Plaintiffs and the putative class members actually reside or resided, including memory care units, where applicable; (k) busses, shuttles and other vehicles used to transport residents to and from the facilities; and (l) paths of travel leading from site boundaries to the entrances and alternative entrances. Inspections will begin on the dates and times indicated below for each facility and will continue until completed.

Date	Time	Facility	Address
June 11, 2019	9:00 A.M.	Auburn	11550 Education St. Auburn, CA 95602
June 11, 2019	10:00 A.M.	Brookhurst	15302 Brookhurst St. Westminister, CA 92683
June 12, 2019	10:00 A.M.	Oceanside	3524 Lake Blvd. Oceanside, CA 92065
June 12, 2019	9:00 A.M.	Orangevale	6125 Hazel Ave. Orangevale, CA 95622
June 13, 2019	10:00 A.M.	San Marcos	1590 W. San Marcos Blvd. San Marcos, CA 92078
June 14, 2019	10:00 A.M.	Clairemont	5219 Clairemont Mesa Blvd. San Diego, CA 92117
June 17, 2019	10:00 A.M.	Riverwalk	350 Calloway Dr. Bakersfield, CA 93312
June 18, 2019	9:00 A.M.	Fountaingrove	300 Fountaingrove Pkwy. Santa Rosa, CA 95403
June 18, 2019	10:00 A.M.	Chatsworth	20801 Devonshire St. Chatsworth, CA 91311
June 19, 2019	9:00 A.M.	Windsor	907 Adele Dr. Windsor, CA 95492
June 19, 2019	10:00 A.M.	North Tarzana	5711 Reseda Blvd. Tarzana, CA 91356

June 20, 2019	9:00 A.M.	Chanate	3250 Chanate Rd. Santa Rosa, CA 95404
June 20, 2019	10:00 A.M.	Riverside	5881 El Palomino Dr. Riverside, CA 92509
June 21, 2019	10:00 A.M.	Corona	2005 Kellogg Ave. Corona, CA 92879
June 26, 2019	9:00 A.M.	Vacaville	1111 Ulatis Dr. Vacaville, CA 95687
June 27, 2019	9:00 A.M.	San Pablo	13956 San Pablo Ave. San Pablo, CA 94806
July 9, 2019	9:00 A.M.	San Ramon	18888 Bollinger Canyon Rd. San Ramon, CA 94583
July 10, 2019	9:00 A.M.	Tracy	355 W. Grant Line Rd. Tracy, CA 95376
July 17, 2019	9:00 A.M.	Redwood City	485 Woodside Rd. Redwood City, CA 94061
July 18, 2019	9:00 A.M.	Scotts Valley	100 Lockwood Ln. Scotts Valley, CA 95066

DATED: May 1, 2019

/s/ Guy B. Wallace

Guy B. Wallace (SBN 176151)

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EXHIBIT B

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Attorneys for Plaintiffs and the Proposed Classes

**UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 OAKLAND DIVISION**

STACIA STINER; HELEN CARLSON, by and
 through her Guardian Ad Litem, JOAN
 CARLSON; LAWRENCE QUINLAN, by and
 through his Guardian Ad Litem, LORESIA
 VALLETTE; EDWARD BORIS, by and through
 his Guardian Ad Litem, MICHELE LYTLÉ;
 RALPH SCHMIDT, by and through his Guardian
 Ad Litem, HEATHER FISHER; PATRICIA
 LINDSTROM, as successor-in-interest to the
 Estate of ARTHUR LINDSTROM; and BERNIE
 JESTRABEK-HART; on their own behalves and
 on behalf of others similarly situated,
 Plaintiffs,

vs.

BROOKDALE SENIOR LIVING, INC.;
 BROOKDALE SENIOR LIVING
 COMMUNITIES, INC; and DOES 1 through 100,
 Defendants.

CASE NO. 17-cv-03962-HSG (LB)

**NOTICE OF SITE INSPECTIONS
 PURSUANT TO FRCP 34**

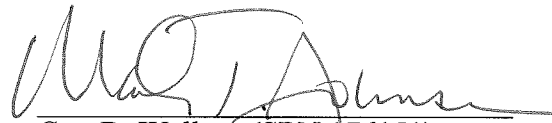
PLEASE TAKE NOTICE that beginning on September 3, 2019, Plaintiffs will conduct site inspections as permitted by Rule 34(a)(2) of the Federal Rules of Civil Procedure at the Brookdale Senior Living facility locations indicated in the table below. The scope of Plaintiffs' inspections will include all of the following: (a) parking lots and spaces; (b) routes to entrances and to alternative entrances from the parking lots and spaces; (c) entrances, and alternate entrances; (d) corridors; (e) dining areas; (f) lounges; (g) visitor common areas; (h) other common areas and areas available for use by residents; (i) public restrooms; (j) rooms where Plaintiffs and putative class members actually reside or resided, including memory care units located at the facility; (k) busses, shuttles and other vehicles used to transport residents to and from the facilities; and (l) paths of travel leading from site boundaries to the entrances and alternative entrances. Inspections will begin on the dates and times indicated below for each facility and will continue on subsequent dates as agreed to by the parties and/or as ordered by the Court, until completed.

DATE	TIME	FACILITY	ADDRESS
September 3, 2019	9:00am	Salinas	290 Regency Circle Salinas, CA 93906
September 4, 2019	9:00am	San Jose	1009 Blossom River Way San Jose, CA 95123
September 5, 2019	9:00am	North Fremont	38035 Martha Avenue Fremont, CA 94536
September 9, 2019	9:00am	Bakersfield	8100 Westwold Drive Bakersfield, CA 93311
September 10, 2019	9:00am	Santa Monica	2107 Ocean Avenue Santa Monica, CA 90405
September 10, 2019	9:00am	Camarillo	6000 Santa Rosa Road. Camarillo, CA 93012
September 11, 2019	9:00am	Santa Monica	851 Second Street Santa Monica, CA 90403
September 11, 2019	9:00am	South Tarzana	18700 Burbank Boulevard Tarzana, CA 91356
September 12, 2019	9:00am	Northridge	17650 Devonshire Street Los Angeles, CA 91325
September 13, 2019	9:00am	Alhambra	1 E Commonwealth Alhambra, CA 91801

DATE	TIME	FACILITY	ADDRESS
September 23, 2019	9:00am	Grand Terrace	22325 Barton Road Grand Terrace, CA 92313
September 24, 2019	9:00am	Paulin Creek	2375 Range Avenue Santa Rosa, CA 95403
September 24, 2019	9:00am	Loma Linda	25585 Van Leuven Street Loma Linda, CA 92354
September 25, 2019	9:00am	Napa	3255 Villa Lane Napa, CA 94558
September 25, 2019	9:00am	Sunwest IL/AL/MC	1001 N Lyon Avenue Hemet, CA 92545
September 26, 2019	9:00am	Cortona Park	150 Cortona Way Brentwood, CA 94513
September 26, 2019	9:00am	Murrieta	24350 Jackson Avenue Murrieta, CA 92562
September 27, 2019	9:00am	Magnolia	737 Magnolia Avenue Corona, CA 92879
October 7, 2019	9:00am	Carmel Valley	13101 Hartfield Avenue San Diego, CA 92130
October 8, 2019	9:00am	Carlsbad	3140 El Camino Real Carlsbad, CA 92008
October 9, 2019	9:00am	San Juan Capistrano	31741 Rancho Viejo Road San Juan Capistrano, CA 92675
October 10, 2019	9:00am	Irvine	10 Marquette Irvine, CA 92612
October 11, 2019	9:00am	Anaheim Hills	380 S. Anaheim Hills Road Anaheim Hills, CA 92807
October 15, 2019	9:00am	Mirage Inn	72750 Country Club Drive Rancho Mirage, CA 92270
October 16, 2019	9:00am	Rancho Mirage	72201 Country Club Drive Rancho Mirage, CA 92270
October 21, 2019	9:00am	Yorba Linda	17803 Imperial Hwy Yorba Linda, CA 92886
October 22, 2019	9:00am	Lodi	2220 West Kettleman Lane Lodi, CA 95242
October 22, 2019	9:00am	Brea	285 West Central Avenue Brea, CA 92821
October 23, 2019	9:00am	Kettleman Lane	2150 West Kettleman Lane Lodi, CA 95242
October 23, 2019	9:00am	Walnut	19850 Golden Springs Drive Walnut, CA 91789

DATE	TIME	FACILITY	ADDRESS
October 24, 2019	9:00am	Elk Grove	6727 Laguna Park Drive Elk Grove, CA 95758
October 24, 2019	9:00am	Central Whittier	8101 Painter Avenue Whittier, CA 90602
October 25, 2019	9:00am	Uptown Whittier	13250 Philadelphia Street Whittier, CA 90601
November 4, 2019	9:00am	Monrovia	201 E. Foothill Blvd Monrovia, CA 91016
November 5, 2019	9:00am	Danville	400 West El Pintado Blvd. Danville, CA 94526
November 5, 2019	9:00am	San Dimas	1740 San Dimas Avenue San Dimas, CA 91773
November 6, 2019	9:00am	Danville Diablo Rd	950 Diablo Road Danville, CA 94526
November 6, 2019	9:00am	North Euclid	1031 North Euclid Avenue Ontario, CA 91762
November 12, 2019	9:00am	Valley View	5900 Chapman Avenue Garden Grove, CA 92845
November 13, 2019	9:00am	Garden Grove	10200 Chapman Avenue Garden Grove, CA 92840
November 14, 2019	9:00am	Anaheim	200 North Dale Avenue Anaheim, CA 92801
November 19, 2019	9:00am	Red Bluff	705 Luther Road Red Bluff, CA 96080
November 20, 2019	9:00am	Citrus Heights	7375 Stock Ranch Road Citrus Heights, CA 95621
December 3, 2019	9:00am	Folsom	780 Harrington Way Folsom, CA 95630
December 4, 2019	9:00am	Sterling Court	100 Sterling Ct. Roseville, CA 95661
December 5, 2019	9:00am	Roseville	1 Somer Ridge Drive Roseville, CA 95661

1 DATED: July 30, 2019



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Mark T. Johnson (SBN 76904)

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Attorneys for Plaintiffs.

ATTORNEY ATTESTATION

Pursuant to Local Rule 5-1(i)(3), I attest that all other signature listed, on whose behalf this filing is submitted, concur in the filing's content and have authorized the filing.

DATED: September 13, 2019

SCHNEIDER WALLACE
COTTRELL KONECKY
WOTKYNS LLP

By: /s/ Mark T. Johnson
Mark T. Johnson
Attorney for Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the attached document with the Clerk of the Court for the United States District Court, Northern District of California, by using the Court's CM/ECF system on September 13, 2019.

I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the Court's CM/ECF system.

DATED: September 13, 2019

SCHNEIDER WALLACE
COTTRELL KONECKY
WOTKYNS LLP

By: /s/ Mark T. Johnson
Mark T. Johnson
Attorney for Plaintiffs